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4 **UNITED STATES DISTRICT COURT**
5 **DISTRICT OF NEVADA**

6
7 JAMES PATRICK CIBULKA,

8 Plaintiff,

9 vs.

10 THOMAS FRONCZEK et al.,

11 Defendants.
12

2:15-cv-01900-RCJ-CWH

ORDER

13 This prisoner civil rights complaint under 42 U.S.C. § 1983 arises out of alleged
14 violations of Petitioner's rights at a state court trial. The Court now screens the Complaint under
15 28 U.S.C. § 1915.

16 **I. LEGAL STANDARDS**

17 Federal courts must dismiss cases filed by plaintiffs proceeding *in forma pauperis* if at
18 any time it appears that the action is frivolous or malicious, fails to state a claim, or seeks
19 monetary relief against immune defendants. 28 U.S.C. § 1915(e)(2)(B). Dismissal of a
20 complaint for failure to state a claim upon which relief can be granted is provided for in Federal
21 Rule 12(b)(6), and the court applies the same standard under § 1915A. *Wilhelm v. Rotman*, 680
22 F.3d 1113, 1121 (9th Cir. 2012). When a court dismisses a complaint upon screening, the
23 plaintiff should be given leave to amend the complaint with directions as to curing its
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1 deficiencies, unless it is clear from the face of the complaint that the deficiencies could not be
2 cured by amendment. *See Cato v. United States*, 70 F.3d 1103, 1106 (9th Cir. 1995).

3 **II. ANALYSIS**

4 Plaintiff alleges various constitutional rights violations at his state court trial. He has
5 appealed his conviction, and the Nevada Supreme Court has affirmed. Another judge of this
6 Court has dismissed his subsequent habeas corpus petition for failure to maintain a current
7 address. It is not clear whether Plaintiff has filed any state habeas corpus action. In any case, the
8 Court cannot provide civil relief under 42 U.S.C. § 1983, because any such relief would
9 undermine the validity of the state court conviction, and there is no allegation that the state court
10 conviction has been reversed, vacated, or otherwise voided. *See Heck v. Humphrey*, 512 U.S.
11 477, 486–87 (1994).

12 **CONCLUSION**

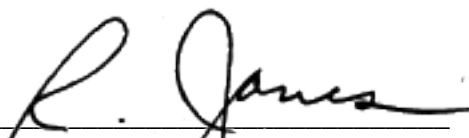
13 IT IS HEREBY ORDERED that the Application to Proceed in Forma Pauperis (ECF No.
14 5) is GRANTED, the Clerk shall FILE the Complaint, and the Complaint is DISMISSED.

15 IT IS FURTHER ORDERED that the Motion (ECF No. 4) is DENIED.

16 IT IS FURTHER ORDERED that *in forma pauperis* status shall not continue on appeal.

17 IT IS FURTHER ORDERED that the Clerk shall enter judgment and close the case.

18 Dated this 29th day of June, 2016.

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20 
21 ROBERT C. JONES
22 United States District Judge
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